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A University of Tennessee

Technical Bulletin

January 7, 1993

Cable TV Bill Carries Significant Changes

By Jim Finane, MTAS Special Projects Consultant

A cable television bill passed by the U.S. Congress in October will significantly change the way your city franchises and regulates your cable operator.

The bill — officially known as The Cable Television Consumer Protection and Competition Act of 1992 — was passed over President Bush's veto. Rate increases, a lack of competition among cable operators, and other changes in the cable and broadcast television industry were the driving forces behind Congress' action.

Some background

The first federal legislative entry into the regulation of cable television service was The Cable Communications Policy Act of 1984. This bill had the net effect of **deregulating** cable television services in 97 percent of all U.S. franchises — and 100 percent of all Tennessee franchises — after Dec. 29, 1986.

Since rate deregulation, monthly charges for basic cable TV service have increased by an average of 29 percent, three times the rate of increase of the Consumer Price Index over the same period. And, since competition at the local level is largely nonexistent, most cable customers do not have a choice of systems.

"Competition" defined

Under the 1984 act, the Federal Communications Commission (FCC) was given the responsibility

of defining "effective competition." If a cable system was subject to "effective competition" from other video services, the system was exempt from rate regulation. The method the FCC used to define this term had the net effect of prohibiting rate regulation in virtually every location in the country.

The new act defines effective competition as existing where:

1. The area has only one cable system, and fewer than 30 percent of the households in the area subscribe to the service of the cable system, or
2. There are at least two cable systems, available to at least 50 percent of the households, and the smaller system (or systems other than the largest system) has at least 15 percent of the households as customers.

What this means is that **virtually every city and town in Tennessee will be defined as NOT having effective competition.**

Who can regulate rates?

The act provides that the FCC will regulate rates in those areas that do not meet the effective competition criteria, or individual cities can apply to the FCC to regulate their own rates. The cities must certify that they have the staff resources and the legal authority to carry out these responsibilities, and they must adopt regu-

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lations substantially the same as the FCC's rules for the area.

Tackling unreasonable rates

The act requires the FCC to come up with regulations within six months of passage that will allow the rollback of existing "unreasonable" rates. Any backlog of problems will have to be taken care of in the first six months after the regulations become effective on April 5, 1993. After that, the FCC has to establish criteria for what an unreasonable rate increase would be in the future. It also would establish the requirements needed to file a complaint.

FCC regulations

The FCC has six months after the passage of the act to formulate regulations, following some very detailed standards in the act itself, to implement the rate regulatory provisions. On April 5, 1993, these regulations should come into force.

"Must-carry" provisions

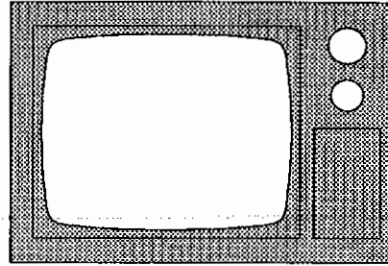
A major change in the act is the modification of the "must-carry" rules that control what stations must be available at the basic-service level of a cable system. Without going into the details, the new act will require most systems to carry all local full-power broadcast stations and at least one noncommercial (PBS) station, local or distant.

If two broadcast stations carry the same network (for example, the NBC affiliates in Nashville and Chattanooga), the cable system must carry the station closest to the system's origination point. **All of the must-carry stations must be available on the "basic tier" of cable service.** Low-power stations in larger markets may be the net losers in this arrangement, since most large-market systems won't have to carry more than one low-power station.

Exclusive franchises

The act prohibits franchising authorities (local governments) from granting an exclusive fran-

chise. Also, any denial of an application from a potential second franchisee can be appealed through the federal courts as prescribed for other problems — such as denial of a franchise renewal — under the existing law.



Here's an important addition to the law: A section in the act specifically authorizes municipalities to build and operate — without granting themselves a

franchise — their own cable system, in competition with their existing franchised operator.

Consumer protection and customer service standards

The act requires the FCC to set national standards for all cable systems' office hours, availability, outages, billing and refund procedures, new installations, and service calls. The act also strengthens the rights of municipalities to set their own consumer protection and customer service standards, which may exceed those established by the FCC.

Sales of cable systems

A new section of the cable law prohibits the sale of a cable system to a new owner within the first 36 months after the acquisition or initial construction of the system. This should end the speculative trade in cable franchises that has existed since the 1984 act went into effect. It also will stop the practice of so-called "second franchise blackmail," where a second franchise holder sells out to the existing first franchise before going into business.

Another new section will limit municipalities that have the right under their franchise to approve or disapprove franchise sales or transfers. If a franchise transfer is submitted for approval to a municipality, the city must act on the request (either approve or disapprove) within 120 days or the request will be deemed to be granted.

New technical standards

The FCC is required by the act to formulate, within 12 months, new standards for cable systems' technical operation and signal quality. The FCC had already begun such a process before the act was passed.

Emergency announcements

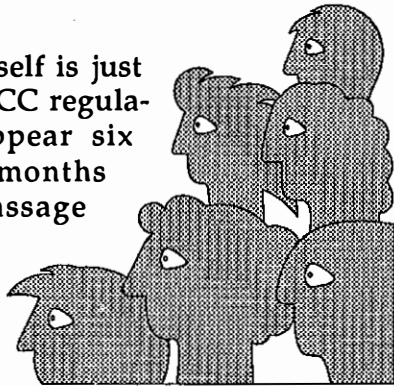
The act also requires the FCC to prescribe standards that will require cable systems to provide the same emergency broadcast capabilities as over-the-air radio and TV stations.

Written notice of programming changes

A new section added to the law allows municipalities to require cable systems to provide 30 days' advance written notice for any programming changes.

Summary

The cable TV act itself is just the first step; the FCC regulations that will appear six months and 12 months after the act's passage (April 5 and Oct. 5, 1993) will also have a major impact. MTAS will issue another Technical Bulletin after the April regulations and will keep your city posted on any significant developments in this field.



For more information

If you have any cable television-related question or problem, call Jim Finane, special projects consultant, in the Knoxville MTAS office at (615) 974-0411.

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee's Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League in providing technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, communications, ordinance codification, and wastewater management.

MTAS *Technical Bulletins* are information briefs that provide a timely review of topics of interest to Tennessee municipal officials. *Bulletins* are free to Tennessee local, state, and federal government officials and are available to others for \$2 each. Contact MTAS for a list of recent *Bulletins*.

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